United Nations CRC/C/OPAC/TKM/CO/1

Convention on the Rights of the Child

Distr.: General
20 February 2015

Original: English

Committee on the Rights of the Child

Concluding observations on the report submitted by Turkmenistan under article 8, paragraph 1, of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict*

1. The Committee considered the initial report of Turkmenistan (CRC/C/OPAC/TKM/1) at its 1939th meeting (see CRC/C/SR.1939), held on 14 January 2015, and adopted at its 1983rd meeting (see CRC/C/SR.1983), held on 30 January 2015, the following concluding observations.

I. Introduction

2. The Committee welcomes the submission of the State party's initial report, providing detailed information regarding its fulfilment of the rights guaranteed by the Optional Protocols as well as the written replies to the list of issues (CRC/C/OPAC/TKM/Q/1 and Add.1). The Committee also appreciates the constructive dialogue held with the multisectoral delegation of the State party.

3. The Committee reminds the State party that the present concluding observations should be read in conjunction with the concluding observations on the State party's combined second to fourth periodic reports under the Convention (CRC/C/TKM/CO/2-4), as well as those on the initial report under the Optional Protocol on the sale of children, child prostitution and child pornography (CRC/C/OPSC/TKM/CO/1), adopted on 30 January 2015.

II. General observations

Positive aspects

4. The Committee welcomes the accession or ratification by the State party of:

(a) The Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, in March 2005;

* Adopted by the Committee at its 68th session (12–30 January 2015).

(b) The Geneva Conventions of 1949 and the Additional Protocols I and II thereto, in April 1992;

(c) The Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organized Crime, in March 2005.

5. The Committee welcomes the declaration made at the ratification of the Optional Protocol that the minimum age for conscription is 18 years.

III. General measures of implementation

Legislation

6. While welcoming that the minimum age for conscription is set at 18 years under the Law on Conscription and Military Service, the Committee regrets that the provisions set forth in the Optional Protocol have not been fully incorporated into the national law of the State party. The Committee is particularly concerned about the absence of specific legislation defining the participation of children in hostilities, as stipulated in article 1 of the present Protocol.

7. **The Committee urges the State party to undertake a review of its domestic legislation with a view to fully incorporating the provisions of the Optional Protocol into its domestic legislation, especially the definition of the participation of children in hostilities, in line with article 1 of the Optional Protocol.**

Coordination

8. While noting the existence of the Interagency Commission on Enforcing Turkmenistan's International Obligations on Human Rights and International Humanitarian Law, the Committee remains concern that there is still no special body responsible for the coordination and the implementation of the State party obligations under the Optional Protocol.

9. **The Committee urges the State party to establish an efficient body at a high level with sufficient authority and a strong mandate to coordinate all activities related to the implementation of the Optional Protocol at cross-sectoral, national, regional and local levels. The State party should ensure that such a coordinating body is provided with the necessary human, technical and financial resources for its effective operation.**

Independent monitoring

10. The Committee expresses concern at the absence of an independent national institution for the promotion and monitoring of the implementation of the Optional Protocol, and with the mandate to receive and investigate complaints by children on violations of their rights under the Optional Protocol.

11. **In the light of its previous recommendations (CRC/C/TKM/CO/1, para. 12), the Committee urges the State party to establish expeditiously an independent mechanism for monitoring the implementation of the Optional Protocol, and with a mandate to receive and investigate complaints by children on violations of their rights under the Optional Protocol.**

Training and dissemination

12. While noting as positive that efforts have been made to increase knowledge and awareness of children's rights in general through various channels, including performances, concerts, seminars, workshops, training sessions, leaflets and brochures, the Committee is concerned that there are no targeted efforts to disseminate the Optional Protocol among the public at large and children in particular. Furthermore, while it appreciates the current training programmes and workshops on children's rights, the Committee is concerned about the absence of training programmes on the provisions of the Optional Protocol for relevant professionals working with and/or for children, in particular military personnel, law enforcement officers, border and immigration personnel, social workers and medical professionals.

13. **The Committee recommends that the State party widely disseminate the provisions of the Optional Protocol, particularly to children and their families, through, inter alia, school curricula and long-term awareness-raising campaigns and training about the preventive measures and harmful effects of all offences referred to in the Protocol. The Committee further recommends that the State party establish training programmes for all relevant professionals working with and/or for children, in particular military personnel, law enforcement officers, border and immigration personnel, social workers and medical professionals.**

IV. Prevention

Military Schools and Military Academies

14. The Committee is concerned that students below 18 years of age enrolled in specialized military schools or higher military academies may be subjected to military discipline and punishment and that discipline is not administered in a manner consistent with the child's human dignity. Moreover, the Committee is concerned about:

(a) The lack of data on the number of specialized military schools and higher military academies in the State party, as well as the absence of disaggregated data (by sex, age, region, rural/urban areas and social and ethnic origin) on the students attending these military schools and academies;

(b) The lack of access to an independent complaints and investigation mechanism for students below 18 years of age.

15. **The Committee recommends that the State party:**

(a) Provide systematic information and data on the number of specialized military schools and higher military academies in the State party, as well as on students attending these military schools and academies;

(b) Establish an independent complaints and investigation mechanism.

V. Prohibition and related matters

16. The Committee is concerned that the recruitment and use of children under the age of 18 years in hostilities both by State armed forces and non-State armed groups is not explicitly criminalized in the State party's legislation. The Committee is also concerned that the recruitment of children under the age of 15 has not been defined as a war crime in the State party's legislation.

17. **The Committee recommends that the State party enact in its legislation the explicit prohibition and criminalization of the recruitment and use of children under the age of 18 years in hostilities both by State armed forces and non-State armed groups. Furthermore, the Committee recommends that the State party define and punish the recruitment of children under the age of 15 years as a war crime, and consider ratifying the Rome Statute establishing the International Criminal Court (2000).**

Extraterritorial jurisdiction

18. The Committee is concerned that, in accordance with article 8 of the Criminal Code, the requirement of double criminality for domestic prosecution of crimes under the Optional Protocol allegedly committed abroad hampers the prosecution of offences outlined in articles 1 and 2 of the Optional Protocol.

19. **The Committee recommends that the State party remove the requirement of double criminality for the prosecution of offences under the Optional Protocol committed abroad when exercising its extraterritorial jurisdiction.**

VI. Protection, recovery and reintegration

Measures adopted to protect the rights of child victims

20. The Committee is concerned about the lack of mechanisms for ensuring the early identification of refugee, asylum seeking or migrant children who may have been recruited or used in hostilities abroad. The Committee also regrets the lack of information on the steps taken by the State party to provide for their physical and psychological recovery and rehabilitation and to promote their reintegration into society.

21. **The Committee recommends that the State party:**

(a) Provide systematic training on the early identification of migrant, refugee and asylum seeking children who may have been recruited into armed conflicts to all professionals working with and/or for children, particularly to immigration personnel, law enforcement officers, judges, prosecutors, social workers and medical professionals;

(b) Collect comprehensive data on those children disaggregated by age, sex and nationality;

(c) Take all necessary measures to ensure that they are provided with physical and psychological recovery and have access to rehabilitation and reintegration programmes.

VII. International assistance and cooperation

International cooperation

22. The Committee encourages the State party to strengthen its cooperation with the International Committee of the Red Cross and with the Special Representative of the Secretary-General for Children and Armed Conflict, to foster cooperation with the United Nations Children's Fund, the Office of the United Nations High Commissioner for Human Rights, the Office of the United Nations High Commissioner for Refugees and other relevant United Nations entities in the implementation of the Optional Protocol.

Arms export and military assistance

23. **The Committee is concerned that the State party has no legislation to prohibit the trade, export and/or transit of arms, including small arms and light weapons, and the provision of military assistance to countries where children may be recruited into armed conflict.**

24. The Committee recommends that the State party:

(a) Enact legislation to prohibit the sale or smuggling, export and/or transit of arms, including small arms and light weapons, and the provision of military assistance to countries where children may be recruited into armed conflict;

(b) Consider ratifying the Arms Trade Treaty (entered into force on 24 December 2014), which regulates the international trade in conventional weapons and prohibits States from exporting conventional weapons to countries when they know those weapons will be used for genocide, crimes against humanity or war crimes.

VIII. Ratification of the Optional Protocol on a communications procedure

25. **The Committee recommends that the State party, in order to further strengthen the fulfilment of children's rights, ratify the Optional Protocol to the Convention on the Rights of the Child on a communications procedure.**

IX. Follow-up and dissemination

26. **The Committee recommends that the State party take all necessary measures to ensure the full implementation of the present recommendations by, inter alia, transmitting them to the President, relevant government ministries, the parliament, the Constitutional Court, and to regional and local authorities, for appropriate consideration and further action.**

27. **The Committee recommends that the initial report and written replies submitted by the State party and the related concluding observations adopted by the Committee be made widely available, including (but not exclusively) through the Internet, to the public at large, civil society organizations, youth groups, professional groups and children, in order to generate debate and awareness of the Optional Protocol, its implementation and monitoring.**

X. Next report

28. **In accordance with article 8, paragraph 2, of the Optional Protocol the Committee requests the State party to include further information on the implementation of the Optional Protocol and the present concluding observations in its next periodic report under the Convention on the Rights of the Child, due by 28 January 2018, in accordance with article 44 of the Convention.**